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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Larry Altherr et al,) No. CV 13-08007-PCT-FJM
10 Plaintiff,)
11 vs.)
12 Town of Jerome et al,)
13 Defendant.)
14 _____)
15

ORDER

16 There is pending before Magistrate Judge Aspey, plaintiff's Motion for Court's
17 Assistance (doc. 34) and defendant's Response (doc. 35). Judge Aspey will decide whether
18 he wants to grant or deny the motion. However, there are statements in the papers about
19 which this court must be perfectly clear. First, nothing about the settlement process
20 constitutes good cause to amend in any way the Rule 16 Scheduling Order (doc. 14) which
21 controls the processing of this case. Unless and until there is a stipulation to dismiss with
22 prejudice, the existing deadlines control up to and including the firm trial date.
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24 Second, a settlement constitutes an accord which extinguishes the underlying claims.
25 Thus, no purpose is served by delaying dismissal of a case. A breach of a settlement
26 agreement would not revive an extinguished claim. Any remedy would be by way of
27 independent action on the agreement.

28 The court notes that the discovery deadline is November 20, 2013, and that the

1 dispositive motion deadline is December 20, 2013. The parties are on a dual track and must
2 meet these deadlines even as they seek to consummate a settlement.

3 DATED this 15th day of October, 2013.

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5 Frederick J. Martone

6 Frederick J. Martone
7 Senior United States District Judge
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